

Article - Real Property

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§7–106.

(a) No trustee of a deed of trust may charge, demand, or receive any money or any other item of value exceeding \$15 for the partial or complete release of the deed of trust unless the fee is specified in the instrument. Any person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100.

(b) (1) Subject to the provisions of paragraph (5) of this subsection a person who has undertaken responsibility for the disbursement of funds in connection with the grant of title to property, shall mail or deliver to the vendor and purchaser in the transaction, the original or a photographic, photostatic, or similarly reproduced copy of the recorded release of any mortgage or deed of trust which the person was obliged to obtain and record with all or part of the funds to be disbursed. If the original or copy of a recorded release is not readily obtainable at the time of recording, the person may mail or deliver to the purchaser or vendor the original or a copy of the court's recordation receipt for the release, or any other certified court document clearly evidencing the recordation of the release.

(2) The required evidence of a recorded release shall be mailed or delivered to the vendor and purchaser within 30 days from the delivery of the deed granting title to the property. However, if the recording of the release is delayed beyond the 30-day period for causes not attributable to the neglect, omission, or malfeasance of the person responsible for the disbursement of funds, a letter explaining the delay shall be mailed or delivered to the vendor and purchaser within the 30-day period, and the person shall mail or deliver to the vendor and purchaser the required evidence of the recorded release at the earliest opportunity. The person shall follow the procedure of mailing or delivering a letter of explanation every 30 days until the required evidence of a recorded release is mailed or delivered to the purchaser and vendor.

(3) If the person responsible for the disbursement of funds does not comply with the provisions of paragraphs (1) and (2), the vendor, purchaser, or a duly organized bar association of the State may petition a court of equity to order an audit of the accounts maintained by the person for funds received in connection with closing transactions in the State. The petition shall state concisely the facts showing noncompliance and shall be verified. On receipt of the petition, the court shall issue an order to the person to show cause within ten days why the audit should not be conducted. If cause is not shown, the court may order the audit to be conducted. The

court may order other relief as it deems appropriate under the circumstances of the case.

(4) Prior to delivery of the deed granting title to the property, the person responsible for the disbursement of funds shall inform the vendor and purchaser in writing of the provisions of this section.

(5) Unless specifically requested to do so by either the purchaser or the vendor, a person responsible for the disbursement of funds in a closing transaction is not required to provide the purchaser or vendor with the required evidence of a recorded release if the person properly disburses all funds entrusted to him in the course of the closing transaction within five days from the date of the delivery of any deed granting title to the property.

(6) The vendor shall bear the cost of reproducing and mailing a recorded release under this section unless the parties otherwise agree.

(c) (1) If a mortgage or deed of trust remains unreleased of record, the mortgagor or grantor or any interested party is entitled to a presumption that it has been paid if:

(i) 12 years have elapsed since the last payment date called for in the instrument or the maturity date as set forth in the instrument or any amendment or modification to the instrument and no continuation statement has been filed;

(ii) The last payment date or maturity date cannot be ascertained from the record, 40 years have elapsed since the date of record of the instrument, and no continuation statement has been filed; or

(iii) One or more continuation statements relating to the instrument have been recorded and 12 years have elapsed since the recordation of the last continuation statement.

(2) Except as otherwise provided by law, if an action has not been brought to enforce the lien of a mortgage or deed of trust within the time provided in paragraph (1) of this subsection and, notwithstanding any other right or remedy available either at law or equity, the lien created by the mortgage or deed of trust shall terminate, no longer be enforceable against the property, and shall be extinguished as a lien against the property.

(3) (i) A continuation statement may be filed within 1 year before the expiration of the applicable time period under paragraph (1) of this subsection.

(ii) A continuation statement shall:

1. Be signed by:

A. The current mortgagee, if the instrument is a mortgage; or

B. The current beneficiary or any one or more of the current trustees if the instrument is a deed of trust;

2. Identify the original instrument by:

A. The office, docket or book, and first page where the instrument is recorded; and

B. The name of the parties to the instrument; and

3. State that the purpose of the continuation statement is to continue the effectiveness of the original instrument.

(iii) Upon timely recordation in the land records where the original instrument was recorded of a continuation statement under this subparagraph, the effectiveness of the original instrument shall be continued for 12 years after the day on which the continuation statement is recorded.

(iv) A continuation statement is effective if it substantially complies with the requirements of subparagraph (ii) of this paragraph.

(d) Any person who has a lien on real property in this State, or the agent of the lienholder, on payment in satisfaction of the lien, on written request, shall furnish to the person responsible for the disbursement of funds in connection with the grant of title to that property the original copy of the executed release of that lien. If the lien instrument is a deed of trust the original promissory note marked “paid” or “canceled” in accordance with § 3–105(d)(1) of this article constitutes an executed release. If the lien instrument is a mortgage, the original mortgage marked “paid” or “canceled” in accordance with § 3–105(d)(2) of this article constitutes an executed release. This release shall be mailed or otherwise delivered to the person responsible for the disbursement of funds:

(1) Within seven days of the receipt, by the holder of the lien, of currency, a certified or cashier’s check, or money order in satisfaction of the debt, including all amounts due under the lien instruments and under instruments secured by the lien; or

(2) Within seven days after the clearance of normal commercial channels of any type of commercial paper, other than those specified in paragraph (1), received by the holder of the lien in satisfaction of the outstanding debt, including all amounts due under the lien instruments and under the instruments secured by the lien.

(e) If the holder of a lien on real property or his agent fails to provide the release within 30 days, the person responsible for the disbursement of funds in connection with the grant of title to the property, after having made demand therefor, may bring an action to enforce the provisions of this section in the circuit court for the county in which the property is located. In the action the lienholder, or his agent, or both, shall be liable for the delivery of the release and for all costs and expenses in connection with the bringing of the action, including reasonable attorney's fees.

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